

REMARKS

Claims 1-20 are all the claims presently pending in the application.

It is noted that the claim amendments are made only for more particularly pointing out the invention, and not for distinguishing the invention over the prior art, narrowing the claims or for any statutory requirements of patentability. Further, Applicant specifically states that no amendment to any claim herein should be construed as a disclaimer of any interest in or right to an equivalent of any element or feature of the amended claim.

Claims 3-5, 9-11, and 13-18 are allowed. Applicant gratefully acknowledges the Examiner's indication that claims 6 and 12 would be allowable if rewritten in independent format. However, as described below, Applicant believes that all claims are allowable over the prior art currently of record, once the wording in the prior art is interpreted in view of the plain meaning of the language used in that reference.

Claims 1, 7, 19-20 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Jokimies, et al. (U.S. Patent No. 6,526,267). Claims 2 and 8 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Jokimies, in view of Kraft, et al. (U.S. Patent No. 6,463,278)

These rejections are respectfully traversed in the following discussion.

I. THE CLAIMED INVENTION

The claimed invention is directed to a radio communication terminal, which, during a waiting operation receives broadcast data from a plurality of base stations to determine a current presence position.

A storing unit stores broadcast data and reception levels received from a plurality of base stations, as registered data that defines a registered presence position when the radio communication terminal is located at a preset presence position. A comparing means compares, during the waiting operation, a currently-received broadcast data and reception levels with the registered data in the storing unit. The comparing means includes a capability to determine that at least one of the number of the base stations or the reception level from the base stations is changing frequently, thereby indicating that said radio communication terminal is moving relative to the base stations.

Conventional radio terminals that have a capability to determine a current presence

position do not include the capability to detect and recognize rapid changes in the parameters that define a current presence position.

The claimed invention, on the other hand, includes a feature that monitors the change in the number of currently-received base stations and/or reception levels from these base stations, as described beginning at line 19 of page 15 of the specification. This information is used to detect the high speed travel mode, described in claims 6 and 12-18.

II. THE PRIOR ART REJECTIONS

A. The Rejection Based on Anticipation by Jokimies

The Examiner alleges that Jokimies teaches the claimed invention described by claims 1, 7, 19, and 20. Applicant submits, however, that there are elements of the present invention described in these claims which are neither taught nor suggested by Jokimies.

More specifically, whatever similarities that the present invention might share with Jokimies, Applicant submits that this reference fails to teach the method of constantly searching for current presence position during "waiting operations", meaning periods during which the radio communication terminal is not actively engaged in a current transmission event (e.g., waiting for a call).

Indeed, beginning at line 66 of column 3, it is clear that Jokimies clearly teaches to search for current presence position only during power-up and at the beginning of each call. Therefore, Jokimies clearly teaches against using waiting periods as the time periods for performing the detection of current presence position, let alone a constant search for the current presence position.

As Applicant has already explained, the reason that Jokimies uses an entirely different technique is because, as clearly explained at lines 33-43 of column 3, the purpose in this reference is merely to determine whether the user is currently in the "home area" where the tariffs and services of this home area would thereby apply during that call.

Moreover, Jokimies fails to teach or suggest the capability to detect and set the high speed travel mode, during which the number of the received base stations and/or the reception levels are changing rapidly. Applicant submits that the express purpose of Jokimies of being able to merely detect the home area clearly precludes any motivation to detect such changes in number/reception level of base stations.

In the final paragraph on page 6 of the Office Action, continuing on to page 7, the states: "... however, Jokimies teaches consistently searching for current presence position while waiting operations."

Applicant respectfully disagrees, since as mentioned above, at lines 66-67 of column 3, Jokimies clearly states that its method is function only during "... *power-up and at the beginning of each call....*" Applicant submits that one of ordinary skill in the art would not agree with the Examiner that the terminal in Jokimies is in a waiting mode during either power-up or at the beginning of a call. That is, the phone is clearly not in a mode in which it is at that time awaiting an incoming call, as required by the plain meaning of "waiting operation." The technique in Jokimies is related to determining tariffs and services of this home area that would apply during a call by the user. There is no reason for applying this technique during a waiting operation, since the terminal would have no reason to expect that the user is placing a call.

If the Examiner wishes to insist upon this characteristic during Appeal, Applicant requests that the precise line and column in Jokimies be identified by the Examiner in the next Office Action.

Relative to the feature of the present invention related to determining whether the terminal is traveling rapidly, the Examiner points to lines 26-37 of column 3. However, Applicant submits that one of ordinary skill in the art would not agree that these lines suggest anything except a comparison of new data with "home area data." There is no suggestion whatsoever that the comparison includes a rate-of-change aspect. Indeed, the terminal in Jokimies does not even care whether it is moving, only whether it is in the home area. Moreover, if the terminal *is* currently in the home area, it is irrelevant that the terminal is currently moving, since the tariffs and services remain unchanged for a terminal that is moving versus a stationary terminal.

If the Examiner wishes to maintain the rejection based on lines 26-37 of column 3, Applicant requests that there be clarification on the record prior to proceeding to Appeal as to the rationale that one of ordinary skill in the art would agree that this language indicates a concern that the terminal in Jokimies is currently moving.

Hence, turning to the clear language of the claims, in Jokimies there is no teaching or suggestion of: "... comparing means for comparing, during said waiting operation, a currently-received broadcast data and reception levels with said registered data in said storing unit, said comparing means including a determining means for determining that at least one

of a number of said base stations and a reception level from said base stations is changing frequently, thereby detecting whether said radio communication terminal is moving relative to said base stations”, as required by claim 1. The remaining independent claims have similar language.

Therefore, Applicant submits that there are elements of the claimed invention that are not taught or suggest by Jokimies. Therefore, the Examiner is respectfully requested to withdraw this rejection.

B. The Rejection Based on Kraft

The Examiner alleges that Jokimies, further in view of Kraft, renders obvious the present invention defined by claims 2 and 8. Applicant respectfully disagrees.

That is, Applicant submits that these references would not have been combined and even if combined, the combination would not teach or suggest each and every element of the claimed invention.

Kraft discloses a portable phone that detects various parameters to automatically set different pre-defined modes. The Examiner is understood as conceding that Jokimies fails to teach or reasonably suggest the automatic setting of modes. To overcome this deficiency, the Examiner relies upon Kraft, alleging that “... it would have been obvious to one skilled in the art at the time of invention to have included into Jokimies’ detection setting, Kraft’s automatic present function provisions, for the purposes of automatically setting user preferences in accordance with different environments (ie meetings,, car use, ect.), as taught by Kraft.”

However, Applicant respectfully submits that these references would not have been combined as alleged by the Examiner and, even if combined, would not overcome the above-identified deficiencies of Jokimies.

First, these references are clearly directed to different matters. The primary reference Jokimies addresses the determination of whether a mobile station is located in a home area, for purpose of determining which rates apply. There is no suggestion in Jokimies that any mode changes are desirable based on the mobile station’s location relative to the home area. Therefore, Applicant submits that one of ordinary skill in the art would have no objective rationale to search for the Kraft reference and modify Jokimies to incorporate automatic mode settings taught in Jokimies, let alone one related to movement of the mobile station.

Moreover, even if Jokimies were to be modified to incorporate the automatic mode

setting capability described in Kraft, the combination would not provide the capability to detect rates of changes in the number/reception levels of currently-received base stations. This capability provides the basis to detect the high speed travel mode, as described in claims 6 and 12-18.

The closest analogy that Kraft has for detecting the high speed travel mode is the carkit detector 15, but this detector is based on an entirely different concept. Indeed, because of its different method of determining that it is in a car, it can only be said that the combination of Jokimies/Kraft would actually be clearly teaching against the technique of the present invention.

Therefore, Applicant submits that Kraft clearly fails to overcome the deficiencies of Jokimies and that all claims are clearly patentable over these two references, either alone or in combination.

III. FORMAL MATTERS AND CONCLUSION


In view of the foregoing, Applicant submits that claims 1-20, all the claims presently pending in the application, are patentably distinct over the prior art of record and are in condition for allowance. The Examiner is respectfully requested to pass the above application to issue at the earliest possible time.

Should the Examiner find the application to be other than in condition for allowance, the Examiner is requested to contact the undersigned at the local telephone number listed below to discuss any other changes deemed necessary in a telephonic or personal interview.

The Commissioner is hereby authorized to charge any deficiency in fees or to credit any overpayment in fees to Attorney's Deposit Account No. 50-0481.

Date: 6/5/08

Respectfully Submitted,


Frederick E. Cooperrider
Registration No. 36,769

McGinn & Gibb, PLLC
8321 Old Courthouse Road, Suite 200
Vienna, VA 22182-3817
(703) 761-4100
Customer No. 21254